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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,980	01/17/2002	Yoshinori Musha	H-1022	5400
24956	7590	07/17/2006		
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
			EXAMINER WENDMAGEGN, GIRUMSEW	
			ART UNIT 2633	PAPER NUMBER

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/046,980	Applicant(s) MUSHA ET AL.	
	Examiner Girumsew Wendmagegn	Art Unit 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/14/2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim1-4, 6, 7,12 -14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanahashi et al. (US 5,533,186).

- ❖ **Claim1-4** drawn to an image retrieving method for providing images as the results of retrieval, comprising the step of: prompting a user to select attribute information item from attribute information items prepared in advance and to assign the selected attribute information to designated area; and retrieving images, which have area-attribute information produced using the attribute produced using the attribute information in combination with information specifying the area. Detecting corresponding areas within retrieved images and displaying the detected corresponding areas with in the images in corresponding areas. The range of retrieval is

changed by performing manipulation of narrowing or expanding the range of retrieval by assigning one attribute information or a plurality of attribute information items one area or a plurality of areas to which attribute information has not been assigned or has been assigned. When a line, a shape, or a texture is drawn on an area specifying means, attribute information representing the shape or texture is added to attribute information.

- ❖ Tanahashi et al. teaches drawn to an image retrieving method for providing images as the results of retrieval, comprising the step of: prompting a user to select attribute information item from attribute information items prepared in advance and to assign the selected attribute information to designated area; and retrieving images, which have area-attribute information produced using the attribute information in combination with information specifying the area. Detecting corresponding areas within retrieved images and displaying the detected areas with in the images in corresponding areas. The range of retrieval is changed by performing manipulation of narrowing or expanding the range of retrieval by assigning one attribute information or a plurality of attribute information items one area or a plurality of areas to which attribute information has not been assigned or has been assigned. When a line, a shape, or a texture is drawn on an area specifying means, attribute information representing the

shape or texture is added to attribute information. (See column 2 lines 41-60, Column 8 lines 5-8 and column 5 lines 11-21).

- ❖ **Claim 6** drawn to an image retrieving device comprising: an attribute selecting means for selecting attribute information concerning an image area; an area specifying means for assigning the attribute information to a designated area; an area-attribute information database in which area-attribute information produced using the attribute information in combination with information specifying the area is recorded; an image database in which image data to be provided is recorded; an image retrieving means for retrieving images that have attribute information, which is selected by said attribute selecting means, found in the area thereof corresponding to the area designated by said area specifying means; and a means for displaying the retrieved images.

- Tanahashi et al. teaches an image retrieving device comprising: an attribute selecting means for selecting attribute information concerning an image area; an area specifying means for assigning the attribute information to a designated area; an area-attribute information database in which area-attribute information produced using the attribute information in combination with information specifying the area is recorded; an image database in which image data to be provided is recorded; an image retrieving means for retrieving images that have attribute information, which is selected by said attribute selecting means, found in the area thereof corresponding to the area

designated by said area specifying means; and a means for displaying the retrieved images.(see column 3 lines 28-34, Column 8 lines 31-35 and Figure 10).

- ❖ **Claim7** drawn to a retrieving device for image retrieval, comprising: common area-attribute detecting means for detecting corresponding areas within retrieved images in which attribute information common to the retrieved image is found; and an image area displaying means for displaying or representing the corresponding areas within the retrieved areas in an area corresponding to the corresponding areas detected by said common area-attribute detecting means.

- Tanahashi et al. teaches a retrieving device for image retrieval, comprising: common area-attribute detecting means for detecting corresponding areas within retrieved images in which attribute information common to the retrieved image is found; and an image area displaying means for displaying or representing the corresponding areas within the retrieved areas in an area corresponding to the corresponding areas detected by said common area-attribute detecting means (see column 8 line 31-67 and column 9 line 1-3).

- ❖ **Claim12** drawn to a retrieving service for providing images in compliance with a user's request for retrieval, wherein: a user is provided with an attribute selecting means for use in selecting attribute information and an area

specifying means for use in designating an area; user prompted to assign attribute information items; images having that area-attribute information are retrieved from an image database and presented to the user.

- Tanahashi et al. teach a retrieving service for providing images in compliance with a user's request for retrieval, wherein: a user is provided with an attribute selecting means for use in selecting attribute information and an area specifying means for use in designating an area; user prompted to assign attribute information items; images having that area-attribute information are retrieved from an image database and presented to the user (see column5 lines 55-67).

❖ **Claim13** drawn to a retrieving service for providing images in compliance with the user's request for retrieval, wherein: corresponding areas within retrieved images in which attribute information common to the retrieved images is found are detected; and a synthetic image of the corresponding area within the retrieved image is displayed.

- Tanahashi et al. teaches a retrieving service for providing images in compliance with the user's request for retrieval, wherein: corresponding areas within retrieved images in which attribute information common to the retrieved images is found are detected; and

a synthetic image of the corresponding area within the retrieved image is displayed (see column 5 lines 55-67 and column 6 lines 1-2)

❖ **Claim14** drawn to a program instructing a computer to function as an image-retrieving device, comprising a means for prompting a user to assign attribute information; means for retrieving images, which have area-attribute information, produced using the attribute information in combination with information specifying the area from an image database; and a means for providing retrieved images.

➤ Tanahashi et al teaches a program instructing a computer to function as an image-retrieving device, comprising a means for prompting a user to assign attribute information; means for retrieving images, which have area-attribute information, produced using the attribute information in combination with information specifying the area from an image database; and a means for providing retrieved images. (See Column 7 lines 51-58).

Claim5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirata (US 5,781,899).

❖ **Claim 5 and 10** drawn to an image database creating method and device for a database of image attribute information, comprising the steps of; dividing an image into a plurality of areas, extracting image features from each area, and providing image features as attribute information; producing area attribute

information using the attribute information in combination with information specifying the area; and recording the area-attribute information in the database.

- Hirata teaches an image database creating method and device for a database of image attribute information, comprising the steps of; dividing an image into a plurality of areas, extracting image features from each area, and providing image features as attribute information; producing area attribute information using the attribute information in combination with information specifying the area; and recording the area-attribute information in the database (see column3 lines 14-29).

Claim 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Abdel-Mottaleb et al. (US 6,226,636 B1).

- ❖ **Claim 15** drawn to a program for instructing a computer to function as a database creating device for creating a database of image attribute information used to retrieve an image comprising; means for dividing the image, extracting image features, providing image as attribute information; means for producing area-attribute information; means for recording the area attribute information in a database.

- Abdel-Mottaleb et al. teaches a program for instructing a computer to function as a database creating device for creating a database of image attribute information used to retrieve an image comprising;

means for dividing the image, extracting image features, providing image as attribute information; means for producing area-attribute information; means for recording the area attribute information in a database (see column 2 lines 12-19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanahashi et al. (Patent number US 5,533,186) as applied to claims 1-4,6,7,12-14 above, and further in view of Kusama et al. (patent number US 6,633,685).

❖ **Claim8** drawn to a retrieving device according to claim7, wherein images selected by an image retrieving means are synthesized to produce a synthetic image, and an area within the synthetic image is displayed.

➤ See the teachings of Tanahashi et al. above. Tanahashi et al. does not teach image selected by an image retrieving means are synthesized, and an area within the synthetic images is displayed. However

Kusama et al. teaches an image being synthesized. Viewing the image (i.e. displaying) is covered up to line 52 (see column 2 lines 37-52).

- One of ordinary skill in the art at the time the invention was made would have been motivated to synthesize the images because it could prevent an increase in data amount (see Kusama et al. column 2 line 43-45).

Claim9 rejected under 35 U.S.C. 103(a) as being unpatentable over Tanahashi et al. (Patent number US 5,533,186) as applied to claims 1-4,6,7,12-14 above, and further in view of Nikawa et al. (Patent number US 6,834,130).

❖ **Claim9** drawn to a retrieving device according to claim7, wherein retrieved images are displayed while being sequentially switched.

- See the teachings of Tanahashi et al. above. Tanahashi et al does not teach the image being displayed sequentially. However Nikawa et al. teaches images being displayed sequentially (see column 1 Lines 29-31).
- One of ordinary skill in the art at the time the invention was made would have been motivated to display retrieved images of Tanahashi et al. while sequentially switched because it is easy to visually retrieve the target image (see column 1 lines 29-35).

Claim11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata (patent number US 5,781,899) as applied to claim10 above, and further in view of Tanahashi et al. (Patent number US 5,533,186).

❖ **Claim11** drawn to an image database creating device according to claim10, wherein an image displayed, any symbol or keyword is assigned to one area or a plurality of areas within the image, the symbol or keyword is combined with information specifying the area, and the resultant information is treated as area-attribute information.

- See the teachings of Hirata above. Hirata does not teach the concept that the symbol or keyword is combined with information specifying the area, and the resultant information is treated as area-attribute information. However Tanahashi et al. teaches using symbol in combination with information specifying the area (see column 11 line52-57)

Therefore, the invention as a whole would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made, absent unexpected results to the contrary.

One of ordinary skill in the art at the time the invention was made would have been motivated to use a symbol of Tanahashi et al in combination with information specifying area as area-attribute information. Because it would narrow down the number of retrieval images at the time of retrieval (see Tanahashi et al. column 11 line 60-64).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 14 and 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

❖ **Claim 14** drawn to a program instructing a computer to function as an image-retrieving device, comprising a means for prompting a user to assign attribute information; means for retrieving images, which have area-attribute information, produced using the attribute information in combination with information specifying the area from an image database; and a means for providing retrieved images.

❖ **Claim 15** drawn to a program for instructing a computer to function as a database creating device for creating a database of image attribute information used to retrieve an image comprising; means for dividing the image, extracting image features, providing image as attribute information; means for producing area-attribute information; means for recording the area attribute information in a database.

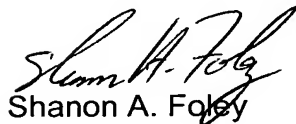
➤ Computer program without the computer-readable medium is nonstatutory functional descriptive material. Descriptive material are nonstatutory when claimed as descriptive material per se. Functional

descriptive material claimed without in combination with an appropriate computer readable medium to enable the functionality to be realized is not patent eligible subject matter (Warner dam, 33F.3d at 1360, 31 USPQ2d at 1759). This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. A machine, a manufacture and composition of matter all define things or products while a process is a series of steps or acts to be performed. And the claim does not fall within any one of these categories.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Girumsew Wendmagegn whose telephone number is 571-270-1118. The examiner can normally be reached on 7:30-5:00, M-F, alternate Friday off.

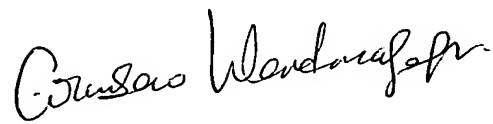
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on 571-272-0898. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Shanon A. Foley

Supervisory Patent Examiner



Girumsew Wendmagegn